

## CHAPTER 15

### WATERSHED OVERLAY DISTRICTS

#### 15.1 Applicability

In accordance with NCGS Chapter 143 Article 21, unless specifically exempt below, the provisions of this chapter shall apply to all development within a Watershed Overlay District, as designated and administered by the NC Environmental Management Commission. The class WS-IV district applies only to new development projects that require a Sedimentation and Erosion Control Plan and/or resulting in the disturbance of 1 acre or more of land area. Permitted uses and conditional uses listed in the Table of Uses for the appropriate district are allowed in the Watershed Overlay Districts. New sludge application sites and landfills are specifically prohibited in the critical areas of any district.

#### 15.2 Exemptions

- A. Existing Development. Buildings that were built prior to the original effective date of these regulations (January 4, 1994) are not subject to the requirements of this chapter.
- B. Redevelopment. Redevelopment is allowed if the rebuilding activity does not have a net increase in built-upon area or provides equal or greater stormwater control than the previous development, except that there are no restrictions on single family residential redevelopment.
- C. Expansions. Expansions to buildings classified as existing development shall comply with the regulations of this Chapter; however, the built-upon area of the existing development is not required to be included in the impervious calculations.
- D. Nonconforming lots of record. A lot that pre-existed the original effective date of these regulations (January 4, 1994) may be developed for single-family residential purposes without being subject to the regulations of this chapter.
- E. Recombination Plats. Recombination of contiguous nonconforming lots of record owned by the same party is required in order to establish a lot or lots that meet or nearly meet the development restrictions of this Section, as determined by the Administrator.
- F. Silviculture. The NC Forest Service shall be the designated agency for oversight of compliance with water supply watershed protection requirements.
- G. Agriculture. The NC Soil and Water Conservation Commission shall be the designated agency for administration of the applicable water supply watershed protection requirements.
- H. NCDOT. Activities that are regulated in accordance with provisions of the National Pollutant Discharge Elimination System (NPDES) Permit No. NCS000250.

### 15.3 Density & Built Upon Limits

Minimum and maximum residential and non-residential density and built-upon limits shall be as indicated in the table below, or as required by the underlying zoning district or applicable subdivision regulations, whichever is most stringent.

Water Supply	Location in the Watershed	Maximum Allowable Density or Minimum Lot Size	
		Single-family residential (Except within a Cluster Development - Section 20.6)	All other residential and Non-residential (calculate by total acreage in the tract)
WS-II	Critical Area	Average of 1 dwelling unit / 2 acres per project <u>OR</u> 80,000 square foot lot excluding street right-of-way	6% built-upon area
	Balance of Watershed	Average of 1 dwelling unit / 1 acre per project <u>OR</u> 40,000 square foot lot excluding street right-of-way	12% built-upon area (up to 70% with SNIA approval)
WS-III	Critical Area	Average of 1 dwelling unit / 1 acre per project <u>OR</u> 40,000 square foot lot excluding street right-of-way	12% built-upon area
	Balance of Watershed	Average of 2 dwelling units / 1 acre per project <u>OR</u> 20,000 square foot lot excluding street right-of-way	24% built-upon area (up to 70% with SNIA approval)
WS-IV	Protected Area	With Curb & Gutter: Average of 2 dwelling units / 1 acre per project <u>OR</u> 20,000 square foot lot excluding street right-of-way	With Curb & Gutter: 24% built-upon area (up to 70% with SNIA approval)
		Without Curb & Gutter: Average of 3 dwelling units / 1 acre per project <u>OR</u> 36% built upon area	Without Curb & Gutter: 36% built-upon area (up to 70% with SNIA approval)

### 15.4 Minimum Design Criteria for All New Developments

- A. Vegetated Conveyances. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.
- B. Stream Buffers. Vegetated (natural or planted) buffers shall be required along perennial waters indicated on the most recent version of the United States Geological Survey (USGS). The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers. No new development is

allowed in said buffer except for water-borne structures (e.g., piers, docks, etc.) or other structures such as flag poles, signs and security lights. Minimum widths shall apply:

1. SNIA approved projects – 100 feet
2. All other projects – 30 feet

### **15.5 Special Non-Residential Intensity Allocation (SNIA)**

- A. Applicability. Non-residential development, located outside of critical areas, may occupy 5% of the watershed with up to a 70% built-upon area, when approved as a Special Non-residential Intensity Allocation (SNIA).
- B. Submittal. An application for a SNIA shall be submitted at least 30 days prior to the Planning Board meeting at which it is to be heard. Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Planning Board.
- C. Planning Board. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the SNIA request. Notice of the public hearing shall be published in a newspaper of general circulation once a week for 2 consecutive weeks prior to the public hearing. Requests requiring revisions shall be returned to the Planning Board within ninety (90) days or the request shall be considered withdrawn.
- D. Approval Criteria. SNIA requests shall not be approved unless the following requirements are met as demonstrated and certified on the site plan by a professional engineer:
  1. The request will minimize built-upon surface area;
  2. All stormwater will be directed away from any surface waters;
  3. Best Management Practices will be incorporated to minimize water quality impacts; and
  4. All property subject to a request for a Special Non-Residential Intensity Allocation must be uniformly zoned.
- E. Set Aside for Public Projects and Facilities. In order to assure that sufficient land is available for public projects and facilities within the five identified Watershed areas, 5% of the Special Nonresidential Intensity Allocation shall be set aside for such projects in the Drowning Creek Watershed, the Bear Creek Watershed, the Little River (Vass) Watershed, and the Little River #2 Watershed. 10% of the Nick's Creek Watershed shall be set aside for these purposes. Public projects and facilities shall include schools, public buildings and other similar uses.

### **15.6 Cluster Developments**

- A. Applicability. Cluster Developments are allowed in all Watershed Areas.

- B. Submittal. Cluster Developments shall be submitted as Conservation Subdivisions or Planned Unit Developments.
- C. Approval Criteria. Cluster Developments shall not be approved unless the following requirements are met:
  - 1. Built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, shall transport stormwater runoff from the development by vegetated conveyances to the maximum extent practicable;
  - 2. Areas of concentrated development shall be located in upland areas and away, to the maximum extent practicable, from surface waters (all waters of the state as defined in North Carolina General Statute 143-212, except underground waters) and drainageways;
  - 3. The development shall meet all applicable density requirements per Section 18.8F (Permitted Density);
  - 4. The development shall meet all applicable minimum open space requirements per Section 18.8D (Minimum Open Space Required) and Section 18.8E (Ownership of Open Space).

#### **15.7 Density Averaging of Noncontiguous Parcels**

- A. Applicability. Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of complying with this chapter. Density averaging of two noncontiguous parcels for purposes of complying with this chapter shall be allowed in accordance with this section and NCGS 143-214.5 (d2).
- B. Submittal. The application shall be submitted at least 30 days prior to the Planning Board meeting at which it is to be heard. A site plan prepared in accordance with Section 9.2(C). Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Planning Board.
- C. Planning Board. The Planning Board shall act as the Watershed Review Board, shall hold a legislative public hearing, and shall review and approve or deny the request. Requests requiring revisions shall be returned to the Planning Board within ninety (90) days or the request shall be considered withdrawn.
- D. Approval Criteria. The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the requirements of this section.

#### **15.8 Watershed Variance**

- A. Applicability. In addition to the other requirements of Section 13.2 (Variances), petitions to the standards of the chapter shall comply with the following:

1. Minor Variances. Shall include petitions for the reduction of any standard of this chapter by a factor of less than 10%. Minor variances shall be approved by the Board of Adjustments in accordance with Section 13.2 (Variances).
  2. Major Variances. Shall include petitions for the reduction of any standard of this chapter by a factor of 10% or more. Major variances shall comply with Section 13.2 (Variances) except that a decision by the Board of Adjustment to approve a major variance shall be advisory only. The Administrator shall, within 30 days, forward a record of the Board of Adjustment hearing, findings, and conclusions to the North Carolina Environmental Management Commission or other appropriate State agency for final decision.
- B. Notice to Local Governments. Prior to the Board of Adjustment meeting, the Administrator shall notify in writing to the clerks of all local governments having jurisdiction within that watershed of the variance being requested. Written responses from any of these local governments shall become a permanent part of the records.